

AMENDED IN ASSEMBLY JUNE 23, 2015

AMENDED IN SENATE JUNE 2, 2015

AMENDED IN SENATE MAY 5, 2015

AMENDED IN SENATE APRIL 15, 2015

AMENDED IN SENATE MARCH 24, 2015

SENATE BILL

No. 9

**Introduced by Senator Beall
(Coauthor: Senator Allen)**

December 1, 2014

An act to amend Sections 75220, 75221, and 75222 of, and to add Sections 75223, 75224, and 75225 to, the Public Resources Code, relating to transportation, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 9, as amended, Beall. Greenhouse Gas Reduction Fund: Transit and Intercity Rail Capital Program.

Existing law requires all moneys, except for fines and penalties, collected by the State Air Resources Board from the auction or sale of allowances as part of a market-based compliance mechanism relative to reduction of greenhouse gas emissions to be deposited in the Greenhouse Gas Reduction Fund.

Existing law ~~provides various sources of funding for transportation programs, including capital and operating funds for rail services, including intercity, commuter, and urban rail systems, including~~ *establishes* the Transit and Intercity Rail Capital ~~Program~~ *Program*, which receives 10% of the annual proceeds of the Greenhouse Gas Reduction Fund as a continuous ~~appropriation~~. Existing law provides

~~that the purpose of the program is appropriation, to fund capital improvements and operational investments to modernize California's rail systems to achieve certain policy objectives, including reducing greenhouse gas emissions, expanding and improving rail services to increase ridership, and improving rail safety. Existing law requires the Transportation Agency to evaluate applications for funding under the program and to prepare a list of projects recommended for funding, with grants to be awarded by the California Transportation Commission.~~

This bill would modify the purpose of the program to delete references to operational investments and instead provide for the funding of ~~large,~~ transformative capital improvements that will modernize California's intercity, commuter, and urban rail systems and bus and ferry transit systems to achieve certain policy objectives, including reducing emissions of greenhouse gases, expanding and improving transit services to increase ridership, and improving transit safety. By expanding the purposes for which continuously appropriated funds ~~moneys~~ may be used, the bill would make an appropriation. The bill would ~~require the Transportation Agency to adopt a multiyear program of projects for funding, and require the California Transportation Commission to allocate funding to applicants pursuant to the program of projects. The bill would require that 70% of available funds be programmed and allocated to projects with a total cost of \$100,000,000 or more, and 30% to projects with a total cost of less than \$100,000,000. modify the information required to be included in applications for grants under the program and would authorize an eligible applicant to submit multiple applications.~~ The bill would require the Transportation Agency, in selecting projects for funding, to consider the extent to which a project reduces greenhouse gas emissions, would add additional factors to be considered in evaluating applications for funding, and would expand certain factors considered to include bus and ferry transit service. The bill would require the Transportation Agency to develop, by July 1, 2016, a 5-year estimate of revenues reasonably expected to be available for the program, with subsequent estimates to be made every other year for additional 5-year periods, ~~and would require the agency to adopt 5-year programs of projects consistent with those estimates. estimates, and would require the California Transportation Commission to allocate funding to eligible applicants pursuant to the program of projects.~~ The bill would authorize the Transportation Agency, in cooperation with the California Transportation Commission, to make a multiyear funding commitment for a project proposed to be funded over more than one

fiscal year, and would authorize the California Transportation Commission to approve a letter of no prejudice that would allow an applicant to expend its own ~~funds~~ *moneys* on a project in the adopted program of projects, subject to future reimbursement from program ~~funds~~ *moneys* for eligible expenditures.

Vote: majority. Appropriation: yes. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 75220 of the Public Resources Code is
2 amended to read:

3 75220. (a) The Transit and Intercity Rail Capital Program is
4 hereby created to fund ~~large~~, transformative capital improvements
5 that will modernize California's intercity, commuter, and urban
6 rail systems and bus and ferry transit systems to achieve all of the
7 following policy objectives:

- 8 (1) Reduce emissions of greenhouse gases.
9 (2) Expand and improve transit service to increase ridership.
10 (3) Integrate the rail service of the state's various rail operators,
11 including integration with the high-speed rail system.
12 (4) Improve transit safety.

13 (b) The Transportation Agency shall evaluate applications
14 consistent with the criteria set forth in this chapter and adopt a
15 multiyear program of projects for funding pursuant to Section
16 75224, ~~that~~ *which* may be revised at any time.

17 (c) The California Transportation Commission shall allocate
18 funding to applicants pursuant to the program of projects adopted
19 by the Transportation Agency.

20 ~~(d) Seventy percent of available funds shall be programmed and
21 allocated to projects with a total cost of one hundred million dollars
22 (\$100,000,000) or more, and 30 percent shall be programmed and
23 allocated to projects with a total cost of less than one hundred
24 million dollars (\$100,000,000).~~

25 SEC. 2. Section 75221 of the Public Resources Code is
26 amended to read:

27 75221. (a) Projects eligible for funding under the program
28 include, but are not limited to, all of the following:

- 29 (1) Rail capital projects, including acquisition of rail cars and
30 locomotives, that expand, enhance, and improve existing rail

1 systems and connectivity to existing and future transit systems,
2 including the high-speed rail system.

3 (2) Intercity and commuter rail projects that increase service
4 levels, improve reliability, and decrease travel times.

5 (3) Rail integration implementation, including integrated
6 ticketing and scheduling systems, shared-use corridors, related
7 planning efforts, and other service integration initiatives.

8 (4) Bus rapid transit and other bus and ferry transit investments
9 to increase ridership and reduce greenhouse gas emissions.

10 (b) In order to be eligible for funding under the program, a
11 project shall demonstrate that it will achieve a reduction in
12 emissions of greenhouse gases. In selecting projects for funding,
13 the Transportation Agency shall consider the extent to which a
14 project reduces emissions of greenhouse gases.

15 (c) The program shall have a programmatic goal of providing
16 at least 25 percent of available funding to projects benefiting
17 disadvantaged communities, consistent with the objectives of
18 Chapter 830 of the Statutes of 2012.

19 (d) In evaluating grant applications for funding, the
20 Transportation Agency shall consider all of the following:

21 (1) The cobenefits of projects that support *the* implementation
22 of sustainable communities strategies through one or more of the
23 following:

24 (A) Reducing ~~auto~~ vehicles miles traveled *from automobiles*
25 and the number of ~~auto~~ *automobile* trips through growth in transit
26 ridership.

27 (B) Promoting housing development in the vicinity of rail
28 stations.

29 (C) Expanding existing rail and public transit systems.

30 (D) Enhancing the connectivity, integration, and coordination
31 of the state's various regional and local transit systems.

32 (E) Providing a direct connection to the high-speed rail system.

33 (F) Implementing clean vehicle technology.

34 (G) Promoting active transportation.

35 (H) Improving public health.

36 (2) The project priorities developed through the collaboration
37 of two or more rail operators and any memoranda of understanding
38 between state agencies and local or regional rail operators.

39 (3) Geographic equity.

1 (4) Consistency with an adopted sustainable communities
2 strategy or, if a sustainable strategy is not required for a region by
3 law, a regional plan that includes policies and programs to reduce
4 emissions of greenhouse gases.

5 (5) The extent to which a project has supplemental funding
6 committed to it from other nonstate sources.

7 (6) The extent to which the project will increase transit ridership.

8 (e) Eligible applicants under the program shall be public
9 agencies, including joint powers agencies, that operate *or have*
10 *planning responsibility* for existing or planned regularly scheduled
11 intercity or commuter passenger rail service, urban rail transit
12 service, or bus or ferry transit service.

13 (f) A recipient of ~~funds~~ *moneys* under the program may combine
14 funding from the program with other state funding, including, but
15 not limited to, the State Transportation Improvement Program, the
16 Low Carbon Transit Operations Program, the State Air Resources
17 Board clean vehicle program, and state transportation bond funds.

18 SEC. 3. Section 75222 of the Public Resources Code is
19 amended to read:

20 75222. (a) Applications for grants under the program shall be
21 submitted to the Transportation Agency for evaluation in
22 accordance with procedures and program guidelines adopted by
23 the agency. An eligible applicant may submit an application to the
24 agency to fund a project over multiple fiscal years. The agency
25 may make multiyear funding commitments for projects that are
26 proposed to be funded from the program over a period of more
27 than one fiscal year.

28 (b) The application shall define the project purpose, intended
29 scope, proposed cost, intended funding sources, and schedule for
30 project completion.

31 (c) The application shall specify the phases of work for which
32 an eligible applicant is seeking an allocation of ~~funds~~ *moneys* from
33 the program, as appropriate:

34 (1) Studies, environmental review, and permits.

35 (2) Preparation of project plans and specifications.

36 (3) Right-of-way acquisition.

37 (4) Construction or procurement.

38 (d) The application shall identify the sources and timing of all
39 ~~funds~~ *moneys* required to undertake and complete any phase of a
40 project for which an eligible applicant is seeking an allocation of

1 ~~funds moneys~~ from the program. The application shall also describe
2 intended sources and timing of ~~funds~~ *funding* to complete any
3 subsequent phases of the project, through construction or
4 procurement.

5 (e) The application shall include information describing the
6 funding sources and approach to ensuring ongoing operating and
7 maintenance costs of the project are funded through the useful life
8 of the project, as applicable.

9 (f) *Eligible applicants may submit more than one application*
10 *for grants under the program pursuant to this section.*

11 SEC. 4. Section 75223 is added to the Public Resources Code,
12 to read:

13 75223. (a) The Transportation Agency shall conduct at least
14 two public workshops on draft program guidelines containing
15 selection criteria prior to adoption and shall post the draft
16 guidelines on the agency's Internet Web site at least 30 days prior
17 to the first public workshop. Concurrent with the posting, the
18 agency shall transmit the draft guidelines to the fiscal committees
19 and the appropriate policy committees of the Legislature.

20 (b) ~~Chapter~~ *The Administrative Procedure Act (Chapter 3.5*
21 *(commencing with Section 11340) of Part 1 of Division 3 of Title*
22 *2 of the Government—Code Code)* does not apply to the
23 development and adoption of procedures and program guidelines
24 for the program pursuant to this section.

25 SEC. 5. Section 75224 is added to the Public Resources Code,
26 to read:

27 75224. (a) No later than July 1, 2016, the Transportation
28 Agency shall develop a five-year estimate of revenues, in annual
29 increments, reasonably expected to be available to the program
30 from the Greenhouse Gas Reduction Fund, and adopt a program
31 of projects, which shall cover a period of five fiscal years,
32 beginning with fiscal year 2016–17.

33 (b) The Transportation Agency shall adopt each subsequent
34 program of projects not later than April 1 of each even-numbered
35 year based on a five-year estimate of revenues, in annual
36 increments. Each subsequent program shall cover a period of five
37 fiscal years, beginning July 1 of the year of adoption, and shall be
38 a statement of intent by the Transportation Agency for the
39 allocation and expenditure of ~~funds moneys~~ during those five fiscal
40 years.

(c) In cooperation with the commission, the Transportation Agency may enter into and execute a multiyear funding agreement with an eligible applicant for a project that is proposed to be funded from the program over a period of more than one fiscal year. The agreement shall include a proposed schedule of the amount of ~~funds~~ *moneys* expected to be provided to the eligible applicant for each fiscal year of the agreement and may be for a period that extends beyond the five fiscal years covered by the program of projects.

SEC. 6. Section 75225 is added to the Public Resources Code, to read:

75225. (a) A lead applicant agency may apply to the commission for a letter of no prejudice for a project or for any component of a project included in the five-year program of projects adopted by the Transportation Agency. If approved by the commission, the letter of no prejudice shall allow the lead applicant agency to expend its own ~~funds~~ *moneys* for the project or any component of the project and to be eligible for future reimbursement from ~~funds~~ *moneys* available for the program from the Greenhouse Gas Reduction Fund.

(b) The amount expended under subdivision (a) shall be reimbursed by the state from ~~funds~~ *moneys* available for the program from the Greenhouse Gas Reduction Fund if all of the following conditions are met:

(1) The project or project component for which the letter of no prejudice was requested has commenced, and the regional or local expenditures have been incurred.

(2) The expenditures made by the lead applicant agency are eligible for reimbursement in accordance with applicable laws and procedures. If expenditures made by the lead applicant agency are determined to be ineligible, the state has no obligation to reimburse those expenditures.

(3) The lead applicant agency complies with all legal requirements for the project, including the requirements of the California Environmental Quality Act (Division 13 (commencing with Section 21000)).

(4) There are ~~funds~~ *moneys* in the Greenhouse Gas Reduction Fund designated for the program that are sufficient to make the reimbursement payment.

1 (c) The lead applicant agency and the commission shall enter
2 into an agreement governing reimbursement as described in this
3 section. The timing and final amount of reimbursement is
4 dependent on the terms of the agreement and the availability of
5 ~~funds~~ *moneys* in the Greenhouse Gas Reduction Fund for the
6 program.

7 (d) The commission, in consultation with intercity, commuter,
8 urban rail, and other public transit entities, may develop guidelines
9 to implement this section.